

Testimony in Opposition to HB 4402-4405

By Michael D. Thomas, Saginaw County Prosecuting Attorney

January 23, 2008 – Lansing, Michigan

The proposed Second Chance legislation focuses almost entirely on the perceived rehabilitation of the individual convicted juvenile murderer and convicted adult First Degree Murderers aged 17, and secondarily, on alleged cost savings to the MDOC.

It completely ignores the premeditated, deliberate nature of these most heinous crimes; the justice of the current life without parole sentence which is the prescribed penalty for convicted First Degree Murderers in Michigan; the incredible pain and suffering visited upon the victims of First Degree Murder and their families; the real probability of more murders and serious crimes being committed by these same juvenile convicted murderers after their release on parole; and the long term degradation of our communities that these Murders cause in our State of Michigan.

Michigan has been one of a minority of states that have set the criminal adult responsibility age at age 17 for many years. Those states include New York and Connecticut.

The proposal seeks to offer parole to any juvenile or 17 year old adult sentenced in Michigan to 10 or more years in prison after being convicted as an adult.

I oppose this proposal for the above reasons and base it on my 33 years experience as an Assistant Prosecutor, Chief Trial Attorney, Chief Assistant, criminal defense attorney and elected Prosecuting Attorney for Saginaw County since 1990.

Before I talk about the First Degree Murders committed by Saginaw County juveniles who were convicted and sentenced to life without parole for their crimes, I want to reference the similar opposition of my colleague in Grand Rapids, William Forsyth, elected Kent County Prosecuting Attorney, who could not be here today due to a murder trial for which he was preparing.

Prosecutor Forsyth sent me three examples of Kent County First Degree Murders committed by two 16 year olds and one 17 year old adult that illustrate his opposition to parole for convicted First Degree Murderers.

16 year old Federico Cruz lured another juvenile into the woods, stabbed him to death in a premeditated, deliberate manner and then tried to cut his heart out of his body. He then cut his victim's head off and took it back to his home in Sparta where he set up a video camera in his bedroom and filmed himself skinning the victim's head on tape. He described what he did as creating the "Murder Show" accompanied by heavy metal music and a running commentary for any future audience.

Prosecutor Forsyth next described a 16 year old and his 17 year old accomplice who flagged down a Kent County Sheriff's Department civilian employee for a ride. Upon being allowed into her vehicle, the 16 year old forced the pregnant victim to drive them to a secluded area in SW Grand Rapids where he ordered her out of her car, forced her to kneel down and shot her dead in the back of the head. The two murderers stole the car and left Kent County with their teenage girlfriends.

The final case reported by Mr. Forsyth involved a 17 year old adult who killed his own mother, his 15 year old sister and his little 6 year old sister. As he argued with his teen sister, his mother tried to intervene and he beat her with a baseball bat and executed her by stabbing her repeatedly. He chased down the teen sister and dragged her back inside the house where he stabbed her to death and stuck the bat in her vagina. Then he took his 6 year old sister upstairs, and stabbed her to death to leave no witnesses.

These are horrific examples of the types of First Degree Murder perpetrated by juveniles and adults on which Michigan juries and judges have convicted juveniles of the ultimate crime – premeditated and deliberate First Degree Murder.

Michigan has not had Capital Punishment for First Degree Murder for many years but its Legislature has set the penalty for this single crime as life without parole because it most fits the crime.

It fits the crime because it allows the First Degree Murderer to live while the victim is dead. It offers the convicted murderer a second chance to change his life after ending another's life. The murderer wakes up each day with new life while the victim's family never sees their son or daughter or husband or wife or mother or father again.

Three years ago the ACLU of Michigan identified Saginaw County along with Wayne, Oakland, Kent, Genesee, Berrien, Calhoun, Macomb, Muskegon, Washtenaw and Kalamazoo as the counties where most of the convicted juvenile [under 18 years by ACLU definition, not Michigan law] First Degree Murderers had been committed.

We reviewed the seven Saginaw juvenile First Degree Murderers currently in Michigan state prisons to determine the nature of their crime, their race, the victims' race and all of the relevant factors in our determination whether to charge and seek First Degree Murder convictions in these cases. We did not review the 17 year olds' cases but I am familiar with some of those cases also.

Saginaw County sustained over 660 murders between 1970-1990. Our Part I crimes and murders peaked in 1991 and steadily declined until 2001 when they started to increase again as the number of Saginaw Police Officers declined by almost 40%.

Prior to my appointment in 1989 my predecessor prosecuted and convicted a 16 year old, Michael T. Jackson, in 1984 who was convicted of First Degree Murder by a jury. He was white as was his victim.

In 1985 Dexter Tolliver, aged 15, was convicted of First Degree Murder by now Judge Darnell Jackson, then Assistant Prosecutor, upon a jury verdict which reflected facts that Tolliver chased his victim across Veterans' Memorial Park, shot him in the back first, then in the head as he lay upon the ground. Mr. Tolliver was African American as was his victim. This appeared to be a gang dispute.

I tried my first juvenile First Degree Murder case in 1991. A jury convicted Michael Perry, a 16 year old white defendant who firebombed a house at 4am and killed 3 kids – an eleven year old girl, her nine year old sister and their 7 year old brother - burned beyond recognition as he tried to escape on the stairway and was caught in the flames. The deceased's twelve year old brother, their mother and father jumped to injury and safety from the 2nd floor windows, or they too would have burned to death in the fire. The victims were all children of color and beloved students at Merrill Park Elementary School where their friends planted a tree in their honor which stands today as a reminder of this tragedy. Perry's co-defendant was a 13 year old who actually made the bombs and who was convicted as a juvenile of arson. He is Hispanic. These murders took place in the backyard of my boyhood home. I cannot imagine a more horrific way to die than to burn up in the fire as 7 year old Isaac Rollie did.

Three years later in 1994, Willie Debardeleben, aged 16, was convicted by a jury of two First Degree Murders for killing two African American men in a house robbery. Six months later he was convicted of Second Degree Murder for shooting a Hispanic man in 1993 because the man would not give him his money. Debardeleben was on juvenile probation at the time of these murders for the sodomy of a neighbor hood child. Both were African American.

In 1997 I tried 16 year old Shytour Williams who was convicted by a jury of First Degree Murder, CSC First Degree, Carjacking, Kidnapping, Armed Robbery, Conspiracy and Felony Firearm in the strangulation murder of a MSU coed Karen King who was home from college for the Christmas holidays. Mr. Williams killed Ms. King along with his 26 year old parolee cousin and drove her around Saginaw and showed her off to some friends as she was bound as a hostage in her own vehicle. She was killed after she was raped and left dead in her vehicle on 1/3/97. Both Williams cousins were African American.

Our Office tried and convicted Elliot Whittington, 16 years old in 1998 for the First Degree Murders of two elderly African American men during a street robbery. Mr. Whittington was also African American.

The last Saginaw County juvenile convicted of First Degree Murderer was Oliver Webb, almost 17 years old in 1998. Mr. Webb premeditated and deliberated his murder of another African American young man by driving him to a cemetery with his girl friend and executing him in the back of the head in broad daylight and in the presence of his girl.

One 17 year old convicted First Degree Murderer I recall vividly also occurred in my home neighborhood on the street I used to walk by on my way to school. 17 year old Jerry Allore robbed an elderly woman in her home, then beat her to death with a club and tried to hide the evidence of the crime by piling bed sheets on top of her and setting her on fire. He said he didn't want to leave a witness to his crimes. He was white and so was the victim, found by her son the next day when she didn't answer his daily calls to her.

All of these cases illustrate the reason for the penalty of life without parole for the ultimate crime of First Degree Murder.

These killings have seriously diminished the quality of life in Saginaw County. There have been hundreds of murders in Saginaw over the last three decades involving youth as victims. Elderly citizens and their grandchildren have been afraid to walk our streets for fear of becoming another Saginaw homicide statistic.

Any legislation which purports to give a convicted First Degree Murderer a second chance should also consider the immutable fact that another citizen has been murdered and has no second chance.

This proposal would incredibly offer parole to these First Degree Murderers after a short 10 years in prison. Meanwhile their families and our constituents are left to grieve for life without any possibility that will see their loved one smile again, or ask for advice, or do good for their fellow human beings or learn from a mistake. They have no second chance.

The DOC statistics indicate 0 convicted juvenile First Degree Murderers in 2004-2006 and decreased numbers since the 1997 Juvenile Justice Act. We have had none in Saginaw County for the past three years at least. Reduced murders by juveniles in Saginaw County has occurred and that is a positive sign.

Focusing simply on the juvenile murderer and not considering the positive effects of a just sentence is foolish and difficult for the average citizen to understand. I cannot recall the last time a citizen has commented to me that they thought the life without parole sentence for First Degree Murder was unfair. Citizens do differ strongly on whether they agree with the death penalty or not, but there seems little consensus that the life without parole penalty is unjust or unfair to those who premeditate and deliberate a cruel murder.

Thank you for the opportunity to discuss this issue with you. Prosecutor Forsyth and I urge you to reject this approach and instead focus more on what causes juveniles to commit these horrific crimes and attempt to reduce the frequency in Michigan.

Michael Thomas

From: KC2041@aol.com

Sent: Wednesday, January 16, 2008 10:56 AM

To: mthomas@saginawcounty.com

Subject: Juvenile LWOP numbers

Attachment B

Waived juveniles who committed Murder 1 or felony murder, & were
sentenced to Life Without Parole (LWOP)

2006 – 0
2005 – 0
2004 – 0
2003 – 1
2002 – 2
2001 – 1
2000 – 5
1999 – 2
1998 – 7
1997 – 7

Waived juveniles convicted under the older waiver laws:

1996 – 9
1995 – 10
1994 – 6
1993 – 11
1992 – 10
1991 – 6
1990 – 8
1989 – 9
1988 – 4
1987 – 8
1986 – 4
1985 – 1
1984 – 6
1983 – 2
1982 – 2
1981 – 3
1980 – 6

1978 – 1
1977 – 1
1976 – 2

1974 – 1
1973 – 1
1970 – 1
1967 – 1
1963 – 1
1953 – 1
1947 - 1

Start the year off right. Easy ways to stay in shape in the new year.